

COURT INTERPRETER COMMISSION
FRIDAY, FEBRUARY 6, 2009
COAST GATEWAY HOTEL - SEATAC

Members Present: Justice Susan Owens, Leticia Camacho, Emma Garkavi, Frank Maiocco, Dirk Marler, Mike McElroy, Judge James Riehl, Virginia Rockwood, Theresa Smith, Judge Gregory Sypolt and Steve Muzik (by telephone).

Member Absent: Judge Judith Hightower

AOC Staff: Katrin Johnson, Tina Williamson

I. General Business

Justice Owens welcomed newly appointed members: District and Municipal Court representative Judge James Riehl, AOC representative Dirk Marler, and Ethnic Organization representative Judge Judith Hightower.

An updated Commission roster was distributed as members introduced themselves.

Members reviewed and approved the minutes of the October 2008 meeting. AOC staff will post the minutes on the AOC's website.

II. Committee Reports

Issues Committee

a. Individual/Group Study Policy Recommendation

The Issues Committee proposed an addition to the current continuing education policy that would allow credit through individual or group study. The committee had reviewed a similar policy from the Colorado court interpreter program.

Interpreters would be required to submit proposals to the court interpreter program coordinator in order to receive credit approval prior to the event. The Committee recommended that ethics credits not be earned through individual or group study, because it is important to assure that this topic is taught by qualified trainers. The Committee also recommended that a limit be set on the number of credits that interpreters can earn through individual and group study. While it may become a convenient way for interpreters to earn credit (particularly for those living in geographically remote areas and/or interpreters of languages other than Spanish), there is still much to gain from participating in educational events with instructors and fellow students.

The new policy language proposed by the Committee, and approved by the membership, reads as follows:

Individual or Group Study. Continuing education credit may be obtained through an Individual or Group Study. Credit will be granted for such a program if the following requirements are met:

- a) **Certified** interpreters may receive a maximum of six (6) credit hours through individual or group study in any given compliance period. No ethics credits may be earned through individual or group study.

Registered interpreters may receive a maximum of three (3) credit hours through individual or group study in any given compliance period. No ethics credits may be earned through individual or group study.
- b) In order to obtain individual or group study credits, the interpreter must submit the Continuing Education Individual or Group Study Request Form to the Court Interpreter Program Coordinator at the Administrative Office of the Courts and receive approval prior to the beginning of the study. Credit for Individual or Group Study will not be granted after the study has been completed.
- c) The request must be submitted a minimum of three (3) weeks prior to the beginning of the study.
- d) Once a request is submitted, it will be evaluated to determine whether the study qualifies for continuing education credit. The interpreter(s) submitting the request will be notified whether the proposal is accepted or rejected. If the request is rejected, explanations or suggestions for change will be provided.
- e) Staff from the Court Interpreter Program may observe or inquire about an interpreter's individual or group study program at anytime without prior notice.
- f) Upon completion of the individual or group study, the interpreter(s) must submit (1) a record of attendance (group study only); (2) a written affirmation of the hours studied from each participant; (3) a copy of a specific outcome resulting from the study, such as a glossary, summary paper, etc.; and (4) a written evaluation of the individual or study from each participant.

It was requested that examples of applications be made available to the Commission at future meetings.

b. Request for Waiver/Extension of Court Hours

The court interpreter program received a letter from a certified interpreter requesting a waiver or extension of time to complete her 20 court hours for the reporting period ending December 31, 2009. In her letter, she states that because of her current visa status, she can only work for the employer that sponsors her visa, and she is not permitted to work voluntarily in any job where others would typically receive payment. She is currently in the process of applying for permanent residency, which would allow her to volunteer or freelance to complete her 20 hours. However, she isn't certain that the process will be completed by the end of 2009. At her current job, she teaches Spanish and translates documents from English to Spanish.

Because of her unexpected circumstances and active efforts to resolve the situation in advance of the compliance deadline, the Committee recommends that her 20 court hours be waived for the reporting period ending December 31, 2009 unless she obtains residency status prior to then. Members voted to approve the recommendation and she is to notify the AOC when she receives her permanent residency status.

Disciplinary Committee

The AOC received a letter from the U.S. Customs and Border Patrol outlining their concerns of the conduct of a Spanish interpreter in the Clallam County District Court. The letter describes how a border patrol agent was directly questioning a defendant outside the courtroom regarding his identity and citizenship. During that discussion, the non-court certified Spanish interpreter interjected himself into the situation by informing the defendant that he did not have to answer the questions, and making disparaging remarks to the agent. U.S. Customs and Border Patrol alleged that the interpreter's actions are in direct violation of the court interpreter code of conduct, because the interpreter provided legal advice, and his conduct demonstrated personal bias and/or partiality. A different written complaint based on these same facts was previously been sent to the Clallam County District Court. A judge from the court has discussed the allegations and concerns with the interpreter. The court has continued to use that interpreter's services, and there have been no subsequent complaints.

The Committee first discussed whether this situation falls under the scope of their authority because the interpreter is not certified, and has not been involved in the court interpreter certification program. The Committee determined that conduct of non-certified and non-registered interpreters does fall under their authorization in that the Commission can determine whether a non-credentialed interpreter who engages in misconduct can/should be excluded from becoming certified/registered by the court interpreter program. Any other sanctions can only be imposed by the court that hired that interpreter. In the present case, the Commission will not exclude the interpreter from participating in the court interpreter certification program. A letter will be sent to all relevant parties outlining the Commission's role and stating that the Commission was satisfied with the way Clallam County District Court handled the situation.

Judicial and Court Manager Education Committee

a. Development of Workshops for Court Staff

After successful judicial training sessions last year, this year the committee will focus on training for court administrators and/or court staff who work directly with court interpreters. Instead of applying to be included on agendas for established conferences, the Committee plans to develop a daylong court interpreter workshop that will be presented in both the Eastern and Western sides of the state. Possible agenda items include: interpreter credentials, the

role of the interpreter, understanding interpreter ethics, ADA and ASL interpreters, and how to provide access and services in the absence of a court interpreter. Exact dates and locations have not been selected, however, the Committee's goal is to offer the first workshop in September 2009.

b. Recent Training Events

- **51st Washington Judicial Conference:** The interpreter session went very well and included a significant component of ASL interpreting. However, attendance was low. This may be due in part because the presentation was similar to what was delivered in June 2008 at the District and Municipal Court Judges' Conference. Attention may need to be re-directed to a different audience for a while.
- **WASCLA (Washington State Coalition for Language Access) Summit IV:** The annual WASCLA Summit was held in Wenatchee in October and was reported to be the most successful yet with approximately 210 participants. A plenary session included Justice Owens, Judge Sypolt, and Judge Yule and was very well received. The Committee is planning a retreat for April and will look at adding more time to next year's agenda.
- **Institute for New Court Employees:** Katrin gave a 30-minute presentation on working with court interpreters. The session was successful and well received.
- **Presiding Judges' Conference:** Bruce Adelson, former attorney with the U.S. Department of Justice, discussed compliance with Title V. Frank reported that the session was effective, and was particularly appropriate for the audience. Evaluations were extremely strong.
- **Judicial College:** In January, Judge Docter of Bremerton Municipal, Mindy Baade and Katrin delivered a 1 hour and 15 minute presentation on working with court interpreters to 43 newly appointed and elected judges. Evaluations will be made available to the Commission at the next meeting.

III. New Committee Assignments and Committee Chairs

New committee assignments were made to the three subcommittees of the Commission. Chairs shall be selected within each committee.

- **Discipline Committee:** Judge Judith Hightower, Dirk Marler and Mike McElroy
- **Education Committee:** Frank Maiocco, Judge Riehl, Theresa Smith and Emma Garkavi
- **Issues Committee:** Leticia Camacho, Steve Muzik, Judge Greg Sypolt and Virginia Rockwood

IV. Update on Translation of State Forms

In 2007 and 2008, an ad hoc committee on forms translation met to discuss several issues regarding translating of state forms. Based on their recommendations the Commission adopted several standards for translations such as the qualifications of translators and editors, the process of editing and reviewing translations, and the selection of languages to translate. The Commission had not previously come to a conclusion to which forms should be translated, because no funding had been available at the time for translation of additional forms. At this time, all forms which are required by statute to be translated, are either translated or in the process of being translated.

There may be \$25,000 available in LAP funding for the translation of additional forms, which must be completed by June 30, 2009. Members discussed options on how to spend the money and agreed that (1) given the tight timeline and the demand for Spanish forms, it makes sense to focus this funding on Spanish translations; (2) the forms identified by the ad hoc committee as priority forms should be translated into Spanish, and (3) the ad hoc committee should reconvene to determine which additional forms should be translated with the funding.

V. Interpreter Testing and Training Update

Oral Certification Exam

Katrin provided the final data (Appendix A) on the 2008 oral certification exam. Some particular success include passing Spanish candidates in Chelan County and the Tri Cities, a newly certified Vietnamese interpreter, and the first Washington court certified Mandarin interpreter.

The passing rate in Washington is still below the average levels of Consortium member states. This may be attributable in part to the fact that the certification process does not include any mandatory training requirements. Beginning in 2009, all new candidates who pass the written exam will be required to attend a daylong orientation session where they will receive information about the components of the oral exam, and how to develop interpreting skills.

2009 Written Exam

The next court interpreter written exam is scheduled for Saturday, February 28 at Bellevue Community College and Yakima Valley Community College. Registration packets were mailed to candidates in January and are downloadable from the Washington Courts website. The registration deadline is February 13. To date, there are 111 registered.

VI. AOC Interpreter Program

Periodic Interpreter Background Checks

The court interpreter program has recently received requests to conduct random periodic criminal background checks of currently certified and registered interpreters. (This is a requirement in the process of becoming certified or registered, but does not reoccur after that point.) The court interpreter program processes its checks through the Washington State Patrol, which takes 6-9 weeks. Mike did some research for alternative methods that may expedite the process, but found that this was the only reliable method available and that there were no quality fast alternatives to these background checks.

Katrin suggested adding a statement to the biannual continuing education compliance form, where the interpreter affirms that he/she has not been convicted of any offenses, and if so, to provide those details. Members agreed this would be a reasonable alternative to conducting periodic background checks, and as such, AOC staff will implement this procedure for the current compliance period that ends December 31, 2009.

Language Assistance Plans

Karina Pugachenok continues to work with courts around the state to develop and implement their language assistance plans (LAPs). To date, 134 courts and 8 county court clerks have developed and implemented LAPs.

Courts continue to receive reimbursement of interpreter expenses. They report their data to the AOC using a new online tool developed by AOC staff, which populates a database that will allow for the running of reports profiling interpreter expenses. It is expected that all funds will be used by the courts, though it is still unknown how much money will be available to this program in state fiscal year 2010/11.

Annual Meeting of the Consortium for State Court Interpreter Certification

Katrin attended the 2008 Consortium meeting in Philadelphia in October 2008. Business discussions focused on results of a recent strategic planning session. The Consortium is considering a name change, development of a mission statement and list of values, as well as a list of the ten key components to court interpreter programs. (See attachment B.)

Next Meeting

The Commission has been invited to Pierce College where they have recently developed an interpreter-training program. The Commission will conduct its regular Commission meeting at this time on Friday, April 10, 2009. AOC staff will email details as they become available.

Appendix A

2008 Oral Certification Exam Summary Washington Court Interpreter Program

Arabic

Six candidates, none passed

Range of Average Total Scores: 45.1 – 76.3

Overall Average of Total Scores: 59.6

Average Scores

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 69 | 64.98 | 46.88 |

Cantonese

Two candidates, **one passed**

Range of Average Total Scores: 63.3 – 85.6

Overall Average of Total Scores: 74.45

Average Scores

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 86 | 76.65 | 64 |

Korean

Twelve candidates, none passed

Range of Average Total Scores: 38.5 – 63.5

Overall Average of Total Scores: 51.42

Average Scores

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 54.67 | 57.50 | 43.10 |

Mandarin

Seven candidates, **one passed**

Range of Average Total Scores: 60.5 – 83.3

Overall Average of Total Scores: 67.86

Average Scores

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 79.71 | 68.43 | 59.23 |

Russian

Nine candidates, **one passed**

Range of Average Total Scores: 49.3 – 77.7

Overall Average of Total Scores: 64.40

Average Scores

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 66.67 | 67.47 | 59.27 |

Somali

One candidate, did not pass

| Sight Translation | Consecutive | Simultaneous |
|-------------------|-------------|--------------|
| 84 | 63.3 | 64.7 |

Spanish

Forty-nine candidates, **five passed**

Range of Average Total Scores: 36.3 – 76.3

Overall Average of Total Scores: 59.29

| Average Scores | | |
|-------------------|-------------|--------------|
| Sight Translation | Consecutive | Simultaneous |
| 58.57 | 60.21 | 58.67 |

Vietnamese

Three candidates, **one passed**

Range of Average Total Scores: 58.5 – 80.5

Overall Average of Total Scores: 66.67

| Average Scores | | |
|-------------------|-------------|--------------|
| Sight Translation | Consecutive | Simultaneous |
| 72.00 | 72.00 | 57.77 |

Appendix B

DRAFT

Consortium for Language Access in the Courts

Mission Statement

The mission of the Consortium is to inspire and enable its members to promote equal access to justice in courts and tribunals by eliminating language barriers for persons with limited English proficiency.

Core Values

The Consortium dedicates itself to:

- **Fairness** – By promoting and supporting the development of programs to provide competent and effective language services for people with limited English proficiency involved in courts and tribunals.
- **Integrity** – By exhibiting honesty, reliability, and accountability in all its activities and promoting these qualities among its members and court-related language service providers.
- **Service** – By providing high quality resources and technical assistance to members as they develop efficient and effective programs to ensure the competence of court-related language service providers and the management of those services.
- **Collaboration** – By freely exchanging knowledge and resources with and among members and other organizations that employ, support, and/or educate court-related language service providers to strengthen professional standards and practices.

10 Keys to a Successful Language Access Program in the Courts (version 6)

- 1. Clear Purpose:** The court system's language access program promotes access to justice in courts and tribunals by eliminating language barriers for persons with limited English proficiency.
- 2. Leadership:** Top judicial and court administration leaders actively support the mission and goals of the language access program and advocate for the provision of sufficient funding for language services statewide and for program staff, facilities, and equipment.
- 3. Consortium membership:** The court system is a member of – and actively participates in the governance and committees of – the Consortium for Language Access in the Courts, and strictly adheres

to the security, confidentiality, and test administration and rating standards articulated in the membership agreements.

4. Credentialing of language service providers: The court system adopts clear standards and procedures for credentialing language service providers through the use of written and oral exams developed or approved by the Consortium.

5. Appointment of credentialed language service providers: The court system adopts appropriate, legally binding rules, policies, and procedures to require the use of credentialed language service providers for all court proceedings and the translation or transcription of court documents and audio recordings.

6. Standards of professional conduct for court-related language service providers: The court system adopts and enforces a Code of Professional Conduct for court-related language service providers and provides for feedback about the quality of services provided.

7. Program administration: The court system's language access program employs highly competent professional staff that efficiently and effectively oversees the delivery of language services in accordance with the rules, policies, and procedures established by the court system.

Effective administration includes, but is not limited to: (1) managing program budget and staff; (2) recruiting, hiring, and monitoring the performance of qualified language service providers; (3) collecting, analyzing and disseminating program data and information to court leaders and stakeholders; and (4) actively seeking alternative funding, including grants, to enhance program operations and services.

8. Communication: The coordinator of the court system's language access program maintains effective ongoing communication with: (1) judicial and court administration leaders regarding the needs and performance of the language access program; (2) stakeholders within one's jurisdiction regarding the nature and performance of the courts' language services program; and (3) Consortium members through participation in its annual meeting, listserv discussions, and requests for information.

9. Education: The language access program educates judicial officers, mediators, arbitrators, court staff, attorneys and other stakeholders regarding: (1) the need for and role of language service providers in court proceedings; (2) the knowledge, skills, and abilities of a competent court-related language service provider; (3) the policies, procedures, and rules for the appointment and use of credentialed language service providers in the courts; and (4) the techniques for effectively delivering their services to non-English speaking persons in the courts.

The language access program also educates non-English speaking persons on the availability, role, and use of language service providers in the courts.

10. Professional development: The language access program actively promotes professional development and training programs for court-related language service providers including, but not limited to, promoting development and maintenance of formal programs at institutions of higher education and collaborating with associations of language professionals.